

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Criminal Justice Committee

BILL: SB 998

SPONSOR: Senator Posey

SUBJECT: Victim's Rights

DATE: March 16, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Pre-meeting
2.			JU	
3.				
4.				
5.				
6.				

I. Summary:

Senate Bill 998 would require the victim, if known and not incarcerated, or the parent or guardian if the victim is a child, or the lawful representative, or the next of kin of a homicide victim, to be informed by the state attorney of the victim's expanded right to consult with the state attorney before the prosecutor decides whether to prosecute the accused. This right of consultation includes the right to meet with the state attorney, if the victim so requests.

This bill substantially amends section 960.001, and reenacts section 945.10, of the Florida Statutes.

II. Present Situation:

The Florida Constitution grants crime victims "the right to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused." Art. I, s.16(b), Fla. Const.

Chapter 960, F.S., entitled "Victim Assistance," contains numerous provisions relating to victims' rights and procedures. Section 960.001, F.S., provides comprehensive "guidelines for fair treatment of victims and witnesses" during criminal proceedings. The statute specifies the criminal justice agencies that are responsible for implementing these guidelines, including the following: the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Parole Commission, the Department of Legal Affairs, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and all sheriff's offices, police departments, and other law enforcement agencies.

The guidelines include notice and the right to be heard during all criminal proceedings, the right of certain victims to consult with the state attorney about the disposition of the case, the right to submit victim impact statements, the right to receive advance notification of judicial proceedings (when possible) and of scheduling changes, the right to request victim restitution, and the right to other general victim assistance.

Section 960.001(1)(g), F.S., requires the state attorney to consult with a victim (or their guardian or family if the victim is a child or has been killed) of a felony involving physical or emotional injury or trauma about their views on the case disposition. These views may include releasing the accused before trial, plea agreements, pretrial diversion programs, and sentencing.

III. Effect of Proposed Changes:

Senate Bill 998 would require the victim, if known and not incarcerated, or the parent or guardian if the victim is a child, or the lawful representative, or the next of kin of a homicide victim, to be informed by the state attorney of the victim's expanded right to consult with the state attorney before the prosecutor decides whether to prosecute the accused.

This right of consultation would include consulting with the prosecuting attorney, in person if requested, before the prosecutor makes a decision whether to prosecute the accused for committing an "adult" crime or adjudicate a minor for committing a delinquent act. It would also apply before the prosecutor offers the accused admission into a pretrial intervention or diversion program.

The bill also reenacts s. 945.10(1)(b), F.S., to incorporate this amendment into the reference in this section.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the executive directors of the State Attorneys Offices, the estimated fiscal impact upon them would be at least \$9.236 million. This estimate is based upon these offices receiving over 1.8 million referrals for prosecution in Fiscal Year 2004-05. If an assistant state attorney has to consult with a victim in each of these referrals before making a filing decision, their assumption is he or she will spend no less than 15 minutes contacting, or attempting to contact the victim, and talking with the victim.

The annual salary of \$42,000 for an assistant state attorney was used in the equation, resulting in the estimate of \$9.236 million. (This salary figure is somewhat arbitrary according to the executive directors. As of January 2005, the average salary for the 1,805 assistant state attorneys was \$59,873. Calculations based upon this salary would result in a significantly higher estimated fiscal impact, as would spending more than 15 minutes on each consultation.)

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
